

REMARKS/ARGUMENTS

Allowable Subject Matter

The Examiner has indicated that claims 81, 82 and 85 are allowable as written. Applicant appreciates the Examiner's indication of allowable subject matter. No amendments have been made to claims 81, 82 or 85.

Additionally, the Examiner has indicated that claims 79, 80 and 84 would be allowable if amended to overcome the Examiner's 35 U.S.C. § 112, second paragraph rejection. As Applicant has amended independent claim 79 accordingly (see below), Applicant respectfully submits that claims 79, 80 and 84 are now allowable.

In the Claims:

Claims 44-48, 50-55, and 79-87 are now pending in the present application. Claims 1-42, 49, and 56-63 have been previously canceled. Claims 43, and 64-78 have been previously withdrawn. Claims 44, 48, 50, 52, 53, 55, 79, and 83 are currently amended. New claim 87 has been added.

Objection to Claims 52-54 Under 35 U.S.C. § 112

The Examiner objected to claims 52-54 as being dependent on a rejected base claim, but has indicated that claims 52-54 would be allowable if rewritten in independent form to include all of the limitations of the base claim. Applicant has added the subject matter of dependent claim 52 to the subject matter of base claim 50, and has rewritten the combined claim as new claim 87. Applicant respectfully submits that based on the Examiner's indications, new claim 87 is allowable.

Rejection of Claims 44-48, 55, 83 and 86 Under 35 U.S.C. § 112

The Examiner rejected claims 44-48, 55, 83 and 86 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More specifically, the Examiner asserts that the recitation of the base in independent claims 44, 50 and 83 contradicts the specification of the present application, as well as certain of the original claims thereof. The Examiner also asserts that the language of claims 48 and 55 is misleading.

Applicant has amended each of claim 44, 50 and 83 to better comport with the description of the invention provided in the written specification and drawings of the present application. Applicant has also amended claims 48 and 55 to more clearly describe the subject matter of the present invention recited therein. As such, Applicant respectfully submits that the Examiner's 35 U.S.C. § 112 rejection of claims 44-48, 55, 83 and 86 can be properly withdrawn.

Rejection of Claims 50-51 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 50-51 under 35 U.S.C. § 103(a) as being unpatentable over Fishman et al. (US 5,007,937). As Applicant does not believe Fishman et al. (Fishman) to teach or suggest the subject matter of claims 50-51, the rejection is respectfully traversed.

The Examiner asserts that Fishman "discloses a substantially impermeable sleeve in the form of a sealing band 12 ..." Applicant respectfully disagrees that a substantially impermeable sleeve is taught or suggested by Fishman, and also asserts that a band cannot be equated with a sleeve.

Fishman teaches a porous (e.g., nylon, orlon, cotton, or wool) sock **10** that is worn over the residual limb of an amputee prior to its insertion into a prosthetic socket. To the sock is attached the narrow sealing band **12** referred to by the Examiner, which band is comprised of a rubberized material. A "sleeve" can be defined as: (1) "a part of a garment that normally covers the arm, varying in form and length, but commonly *tubular*," and (2) "a *tubular* piece, as of metal, for fitting over a rod or the like." (Random House Webster's Unabridged Dictionary, Second Edition; emphasis added). A "sleeve" can also be defined as: (3) "a *tubular* piece designed to fit inside or over a cylinder." (Encarta Dictionary; emphasis added). In contrast, a "band" is defined as: (1) "a thin, flat strip of some material for binding, confining, trimming, protecting, etc.;" and (2) "a fillet, belt, or strap." (Random House Webster's Unabridged Dictionary, Second Edition). Therefore, Applicant respectfully submits that while the sock **10** of Fishman could possibly be considered a sleeve, the band **12** cannot.

Although the sock of Fishman could possibly qualify as a sleeve *in general*, it is clearly not of the same type of sleeve as contemplated by the present invention and, more particularly, is not "substantially impermeable" - or even remotely impermeable, for that matter. Rather, the porous nature of the sock material taught by Fishman will not permit a vacuum to be maintained in the prosthetic socket, as air can freely pass therefrom through the sock material. In fact, Fishman seems to teach this very fact - otherwise the rubberized material band would be rendered unnecessary.

Additionally, even if the Examiner maintains that a sleeve of the present invention can be equated with the band of Fishman, Fishman does not teach or suggest a prosthetic socket having a receiving cavity configured to substantially conform to the

exterior of a wearer's sleeve-covered residual limb. Rather, the receiving cavity of Fishman must be sized to accommodate the outside diameter of the narrow band of rubberized material - thereby resulting in a gap between the sock-covered residual limb and the interior of the receiving cavity throughout a majority of the prosthetic socket (see Figures 1 and 2). As such, the receiving cavity of Fishman cannot provide "sealing contact with a substantial portion of an outer surface of said sleeve," as recited by claim 50 of the present application. Instead, the only sealing contact produced by the structure of Fishman occurs along the minimal interface between the band and the interior of the socket (see Figure 1, for example). Such limited contact cannot provide the same seal that is provided in the present invention by contacting a substantial portion of the outer surface of the sleeve with the interior of the receiving cavity. As would be understood by one skilled in the art, in comparison to the seal provided by the present invention, the seal provided by Fishman could be easily broken during active ambulation of an amputee.

Therefore, based on the foregoing analysis, it can be seen that Fishman does not teach or suggest a substantially impermeable sleeve, as is recited in the rejected claims. Consequently, Applicant respectfully submits that Fishman cannot support a rejection of claims 50-51 under 35 U.S.C. § 103(a).

CONCLUSION

Applicant has amended claims 44, 48, 50, 52, 53, 55, 79, and 83, and has added new claim 87 in the present response. Applicant has also distinguished the subject matter of the present invention over the teachings of the references cited as prior art by the Examiner.

Therefore, Applicant respectfully submits that the present application is now in condition for allowance, and entry of the present amendment and allowance of the application as amended is earnestly requested. If, however, the Examiner maintains his rejection, entry of the present amendment is respectfully requested as reducing the number of issues and placing this application in better condition for appeal.

Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the present application is respectfully encouraged.

Respectfully submitted,

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